

1 David W. Affeld, State Bar No. 123922
2 Damion Robinson, State Bar No. 262573
3 Affeld Grivakes LLP
4 2049 Century Park East, Ste. 2460
5 Los Angeles, CA 90067
6 Telephone: (310) 979-8700

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8 Attorneys for Plaintiff
9 Michael Zeleny
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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

MICHAEL ZELNY,

Plaintiff,

vs.

EDMUND G. BROWN, Jr., *et al.*,

Defendants.

Case No. CV 17-7357 JCS

Assigned to:

The Honorable Richard G. Seeborg

**STIPULATION AND JOINT
APPLICATION TO MODIFY CERTAIN
DISCOVERY DEADLINES**

Current Dates:

Fact Discovery Cut-off: March 1, 2019

Expert Disclosures: April 19, 2019

Rebuttal Experts: May 17, 2019

Expert Cut-off: July 28, 2019

Requested Dates

Fact Discovery Cut-off: April 19, 2019

Expert Disclosures: May 17, 2019

Rebuttal Experts: June 7, 2019

Expert Cut-off: July 12, 2019

[Proposed Order filed concurrently]

Action Filed: December 28, 2017

Trial Date: November 18, 2019

Plaintiff Michael Zeleny ("Zeleny" or "Plaintiff") and defendants the City of Menlo Park ("City"), Dave Bertini ("Bertini"), and Xavier Becerra, in his official capacity ("Becerra"; collectively, "Defendants"), hereby agree and stipulate as follows.

I. RECITALS

1. The current discovery deadlines in this case are as follows:

Fact Discovery Cut-off: March 1, 2019

Expert Disclosures: April 19, 2019

Rebuttal Expert Disclosures: May 17, 2019

Expert Discovery Cut-off: July 28, 2019

Case Management Scheduling Order, Dkt. No. 45.

2. No prior continuances have been granted in this case.

3. Plaintiff and Defendants (the “Parties”) are currently engaged in written discovery and need additional time to complete their responses to outstanding written discovery and to take depositions.

4. Defendants need additional time to respond to Plaintiff’s outstanding Requests for Production and Interrogatories, until March 3, 2019 (for Defendants City and Bertini) and April 5, 2019 (for Defendant Becerra).

5. Plaintiff has agreed to accommodate Defendants’ requests for additional time so long as he has time to prepare for and take Defendants’ depositions thereafter.

6. Written discovery responses are necessary for Plaintiff to adequately prepare to take Defendants’ depositions..

7. Plaintiff has sought to schedule a deposition of New Enterprise Associates (“NEA”), the subject of Zeleny’s protests, and certain individuals affiliated with NEA, since May 2018. NEA filed a Motion to Quash Zeleny’s deposition subpoena on January 25, 2019, Dkt. No. 48, which is set for hearing on March 7, 2019, after the fact discovery cut-off.

8. The Parties are also working to coordinate party depositions as well as depositions of certain non-parties, and have had difficulty coordinating the schedules of the witnesses, the parties, and all counsel.

9. The Parties believe that it is in the best interests of all of them to complete written discovery as promptly as practicable, and then to schedule depositions in an orderly manner while avoiding burden and inconvenience on parties and witnesses.

10. The Parties have also agreed, subject to the Court's approval, to schedule expert disclosures and discovery after the completion of fact discovery so that all of the facts will be developed before experts are required to render opinions.

11. This stipulation will not impact any other deadlines, including the dispositive motion hearing deadline, the final pre-trial conference, or the date set for trial.

II. STIPULATION

NOW, THEREFORE, the Parties stipulate and agree as follows:

1. That the parties agree to the following adjustments of discovery deadlines, subject to Court approval:

a. That the deadline for completion of fact discovery be extended from March 1, 2019 to April 19, 2019, except that the parties will serve no further written discovery without leave of Court or further stipulation;

b. That the deadline for initial expert disclosures be extended from April 19, 2019 to May 17, 2019;

c. The deadline for supplemental and rebuttal expert disclosures be continued from May 17, 2019 to June 7, 2019; and

d. That the deadline for completion of expert discovery be advanced from July 28, 2019 to July 12, 2019.

2. Defendants City and Bertini shall respond to all of Plaintiff's outstanding written discovery directed to them, including his First Set of Requests for Production, Second Set of Requests for Production, First Set of Interrogatories, and Second Set of Interrogatories, on or before March 3, 2019.

3. Defendant Becerra shall respond to all of Plaintiff's written discovery directed to him on or before April 5, 2019.

4. The parties agree to the following briefing schedule on dispositive motions:

a. Opening Briefs due by August 5, 2019;

b. Opposition/Response Briefs due by August 19, 2019;

c. Reply Briefs due by August 26, 2019;

1 The hearing date of September 12, 2019 will remain per the Case Management Scheduling
2 Order.

3 **III. JOINT APPLICATION**

4 The Parties respectfully request and jointly apply for an order, in the form submitted
5 herewith, modifying the Case Management Scheduling Order consistent with the foregoing.

6 **So Stipulated.**

7 Dated: February 12, 2019

Respectfully submitted,

8
9 /s/

10 David W. Affeld
Damion D. D. Robinson
Affeld Grivakes LLP

11 Attorneys for Plaintiff Michael Zeleny

12
13 /s/

14 Todd H. Master
Howard Rome Martin & Ridley, LLP

15 Attorneys for Defendants the City of Menlo
Park and Dave Bertini

16
17 /s/

18 Noreen P. Skelly
Deputy Attorney General

19 Attorneys for Defendant Xavier Becerra
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PROOF OF SERVICE

I certify that I electronically filed the foregoing document through the Court's CM/ECF system. I am informed and believe that the CM/ECF system will give electronic notice of this filing to interested parties via email.

/s/
Damion Robinson